

REMARKS

Claims 10-28 were previously pending. Claims 1-9 were previously cancelled. By this paper, independent claims 10 and 20 are amended and claim 16 is cancelled. The pending claims are now claims 10-15 and 17-28.

Obviousness Rejections Under 35 USC 103

The Office action of July 7, 2009 rejected claims 10-28 as obvious over the Goel reference (Publication Number 2008/0052185) in view of Mesaros (US Patent No. 7,181,419).

Concerning Goel, the following dates are of interest:

Filing Date of Present Application: Jan. 15, 2004

Filing Date of Goel: Aug. 17, 2007

Publication Date of Goel: Feb. 28, 2008

It is respectfully submitted that the Goel reference, having been published over four (4) years after the filing date of the present application, is not art to which one of skill in the art could have turned at the time of the present invention.

The Goel reference claims priority (as a continuation-in-part) of several earlier applications, filed in 2004 (now US Patent No. 7,418,409), 2006 and 2007.

Considering the '409 patent, it has only Figs. 1-22, compared to the Figs. 1-105 of the 2008 Goel '185 reference that is cited in the Office Action. The '409 patent focuses on a method of questioning potential airline passengers about their preferences, to then offer them incentives that are consistent with the airline's goals. See, for example, Col. 9, ll. 11-13, "[T]he Customer Engine 230 administers a questionnaire or survey which is designed to elicit information useful in constructing options to offer..." After collecting data, the software of the '409 patent then uses a numerical optimization technique to

maximize the airlines profit while meeting the constraints set by the customer. (See, *e.g.*, Col. 9, ll. 35-40).

This is nothing like what is claimed in the pending claims. The '409 patent does not disclose a method having, for example, target release dates, actual release dates or advance orders. Nor does the provisional application from which the '409 patent claims priority disclose any such elements (as the provisional application, Serial No. 60/514,248, is even shorter and less detailed than the '409 patent). Neither of these earlier Goel applications disclose, for example:

Independent Claim 10: "transforming the target release date into an actual release date when the number of received advance orders from advance purchasers equals the target number of advance orders" or "offering incentives to potential purchasers to submit advance orders."

Claim 13: "advancing the target release date to a second, earlier revised release date when the target number of advance orders is received" in combination with the limitations of claim 10.

Claim 14: "setting a goal and, when both the goal is met and the target number of advance orders is received, advancing the target release date to a third revised release date that is earlier than the second revised release date" in combination with the limitations of claim 10.

Claim 15: "resetting the target release date to a second target release date when the target number of advance orders is not received prior to the target release date" in combination with the limitations of claim 10.

Claim 17: "providing goal feedback information to at least some of the advance purchasers" in combination with the limitations of claim 10.

Claim 18: "transmitting to an interface of the specially programmed computer a target release date, a target number of advance orders, and a second release date, wherein

the target release date becomes an actual release date if the target number of advance orders is received, and the second release date becomes the actual release date if the target number of advance orders is not received" in combination with the limitations of claim 10.

Claim 19: "releasing a product to advance purchasers on the actual release date, and releasing the product to other purchasers at a later release date" in combination with the limitations of claim 10.

Similarly, the Goel references do not teach or suggest the limitations of claims 20-28. With respect to claim 28, which claims "one form of the product is released to advance purchasers on the actual release date, and a different form of the product is released to other purchasers at a later release date," there is no combination or suggestion in the cited prior art for these limitations of claim 28.

In summary, it is respectfully submitted that the Goel '185 publication is not a proper reference because it was filed several years after the filing date of the present application. And furthermore that none of the applications from which the '185 publication claims priority are proper references under 35 U.S.C. 103, either, as they are much less detailed than the '185 publication and do not disclose important claim elements.

Considering now the secondary reference – Mesaros, US Patent No. 7,181,419 – Mesaros discloses virtual "deal rooms" that take into account buyer profiles in order to customize price schedules. However, Mesaros does not teach or suggest the features as claimed and, as explained above, is not properly combined with the teachings of the Goel reference, which is dated far too late to be relevant to the present application.


Consequently, withdrawal of the rejections and allowance of the claims as presented is respectfully requested.

If the Examiner needs to speak with the undersigned, his direct telephone number is 310-242-2731.

The fee for a one month extension of time to respond for a Small Entity and the RCE fee for a Small Entity the Commissioner is authorized to charge to our Deposit Account No. 06-2425, and any additional fees that may be due.

Respectfully submitted,

FULWIDER PATTON LLP

By: 
Scott R. Hansen
Registration No. 38,486

SRH/cr
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
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